

#### REMARKS

The Examiner has rejected claims 4-10 under 35 U.S.C. 103 as being obvious over U.S. Patent 6,397,388 to Allen in view of U.S. Patent 6,314,398 to Junqua et al.

The Allen patent discloses systems and devices for audio capture and communication during television broadcasts, in which a remote control 204 sends remote control signals to a set-top box 102 for controlling signals sent by the set-top box 102 to a television receiver 202 connected thereto. The remote control 204 contains a microphone 208 (indicated as 209 in Fig. 2) for capturing sound wave and generating an analog or digital audio signal. The microphone 208 is controlled by a switch 206 which toggles operation of the microphone 208. The remote control 204 includes a transmitter 210 for transmitting the control signals as well as the audio signal to the set-top box 102. The set-top box 102 includes a receiver 212 for receiving the signals from the transmitter 210 and a converter 214 for converting the audio information (i.e., the audio signal) into a digital audio stream compatible for transmission over the network 100, i.e., a cable system for reception by the appropriate set-top box in the network. The set-top box 102 may optionally contain an additional microphone (208 in Fig. 5) for additionally or alternatively capturing audio signals. To that end, the switch 206 on the remote control 204 alternatively controls the microphone on the set-top box 102 as well as the self-contained microphone.

The Junqua et al. patent discloses apparatus and method using speech understanding for automatic channel selection in interactive television, in which user speech 30 is received by a speech recognizer 32 for causing a dialog manager 40 to generate signals for controlling the channel of a television.

As indicated in MPEP 2143.01, "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)." Further, "Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992)."

Applicants submit that there is no suggestion or motivation in either Allen nor Junqua et al. for combining these references. In particular, while Allen contains microphones and signal processing circuitry, this is for capturing audio information, converting it to a digital audio signal and transmitting this digital audio signal to a remote (far away) location to be played back by another person viewing a separate television receiver. Rather, Allen discloses a remote control having standard buttons for generating command signals for controlling the television receiver. In fact, it is unclear how the combination of Junqua et al. and Allen would work. It is entirely possible that the combining of Junqua et al. in Allen would

exacerbate the communication aspect of Allen by causing inadvertent channel changes.

Applicants submit that the only origin for such a motivation would come from the teachings of the present invention. This would be indicative of hindsight, which is impermissible.

In view of the above, Applicants believe that the subject invention, as claimed, is not rendered obvious by the prior art, and as such, is patentable thereover.

Applicants believe that this application, containing claims 4-10, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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